IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

Cr. Appln. No. 3015/06

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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CORAM : A.P. Lavande, J.
Dated : January 8, 2007

Heard Mr. Puri, Advocate for the applicants and Mr. Raut, Advocate for the respondent.

By this application under Section 482 of the Code of Criminal Procedure the applicants take exception to the order dated 6.5.2006 passed by the Judicial magistrate First Class, Chandur Railway in Criminal Complaint Case No.204/2005 by which the process has been issued against applicant under sections 406, 420 read with 34 of the Indian Penal Code.

The Apex Court in Rajendrakumar Sitaram Pande & others Vs. Uttam and another (1999 Cr. L.J. 1620) has held that the order of issuance of process is revisable.

In view of the judgment of the Apex Court in Rajendrakumar Sitaram Pande's case (supra) Mr. Puri seeks leave to withdraw the criminal application with liberty to file revision application before the appropriate Sessions Court. Mr. Puri states that the interim protection granted by this Court by order dated 20th September 2006 be continued for a period of four weeks.

Since applicant no.2 is going to get married on 25.1.2007 Mr. Puri states that revision will be filed within a period of four weeks before the appropriate Sessions Court and, therefore, delay in filing revision application be condoned since the applicants were prosecuting remedy under Section 482 of Cr.P.C. in good faith. The prayer is opposed by Mr. Raut, Advocate for the respondent.

Considering the submissions made by learned counsel for the parties and in view of the judgment of the Apex Court in Rajendrakumar Sitaram Pande's case (supra)

the applicants are permitted to withdraw the application with liberty to file revision application against impugned order before appropriate Sessions Court within a period of four weeks. In case the revision is filed against impugned order within a period of four weeks from today, the concerned Sessions Court or Additional Sessions Court as the case may be shall condone the delay in filing the revision application and decide the same on its merits.

In the interest of justice interim order dated 20.9.2006 is continued for a period of four weeks from today.

Mr. Puri assures the Court that the applicant shall personally remain present before the concerned Sessions Court for the purpose of filing of revision application.

Criminal Application is disposed of in the aforesaid terms.

JUDGE

A.